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10/577,267

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Bret David Hawkins

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EXAMINER

CHOKSHI, PINKAL R

ART UNIT

PAPER NUMBER

2425

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,267	<b>Applicant(s)</b> HAWKINS ET AL.	
	<b>Examiner</b> PINKAL CHOKSHI	<b>Art Unit</b> 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/8/2009</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/8/2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 21, 28, and 35 have been considered but are moot in view of the new ground(s) of rejection. See the new rejection below.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 21-25, 28-32, and 35-38** are rejected under 35 U.S.C. 103(a) as being unpatentable over US PG Pub 2002/0194599 to Mountain (hereafter referenced as

Art Unit: 2425

Mountain) in view of US PG Pub 2004/0078817 to Horowitz (hereafter referenced as Horowitz) and US Patent 6,925,650 to Arsenault (hereafter referenced as Arsenault).

Regarding **claim 21**, “a method for operating a television apparatus” reads on the method that provides next program information (abstract and ¶0008) disclosed by Mountain and represented in Fig. 2A.

As to “the method comprising steps of: enabling, via said television apparatus, display of a banner including information for a future program in response to one of said first program guide data and said second program guide data” Mountain discloses (¶0023) that based on the EPG data received, the receiver generates a small display on TV indicating start of next program with program information as represented in Figs. 2A-2C.

Mountain meets all the limitations of the claim except “requesting, via said television apparatus, first program guide data.” However, Horowitz discloses (¶0028, ¶0036) that the EPG data stored in the client device is updated at a sufficient time before the beginning of a television program, where the request to update the EPG is sent by the client's device at a set time. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain's system by transmitting updated EPG to STB at predetermined time before the program begins as taught by Horowitz in order to view/record programs at the updated time so viewers do not miss any portions of the program (¶0004).

Combination of Mountain and Horowitz meets all the limitations of the claim except “initiating, via said television apparatus, acquisition of said first program guide data in response to said request, wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data.” However, Arsenault discloses (col.13, line 64-col.14, line 15) that the receiver acquires and stores program guide objects in stages; during the building database stage, the receiver continues to acquire program guide information to complete the program guide; and during the maintenance stage, the updated program guide information is automatically received and added to the database, where the receiver discards the old versions of program guide information and uses the newer version. Arsenault further discloses (col.14, lines 14-15) that both building database and maintenance stages occur simultaneously, which means while the EPG data is being acquired, the updated program information is received and used to create EPG. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain and Horowitz’s systems by using the latest program information transmitted along with EPG to the receiver as taught by Arsenault in order to provide latest channel content information to the viewers (col.1, lines 22-24).

Regarding **claim 22**, “the method wherein said requesting step is automatically performed a predetermined time period before a detected end time of a currently tuned program” Horowitz discloses (§0036 and claim 22) that the query to update EPG data is transmitted immediately prior to the end of scheduled program time. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain’s system by transmitting updated EPG to STB at predetermined time before the program begins as taught by Horowitz in order to view/record programs at the updated time so viewers do not miss any portions of the program (§0004).

Regarding **claim 23**, “the method wherein said banner includes at least one of: a title of said future program, a starting time of said future program, and a duration of said future program” Mountain discloses (§0023) that the displaying information provided includes the program title, start time, channel number, etc. as represented in Figs. 2A-2C.

Regarding **claim 24**, “the method wherein said future program is a next program on a currently tuned channel” Mountain discloses (§0013) that the display generated on the TV includes information relating to program next to be shown on one channel.

Art Unit: 2425

Regarding **claim 25**, “the method wherein said second program guide data includes an updated electronic program guide” Arsenault discloses (col.14, lines 11-15) that the client device receives and adds updated program guide objects. In addition, same motivation is used as rejection to claim 21.

Regarding **claim 28**, “a television apparatus” reads on the device that provides next program information (abstract and ¶0008) disclosed by Mountain and represented in Fig. 2A.

As to “comprising: means for tuning a program on a channel” Mountain discloses (¶0025) that user selects a program of a channel to watch on a television.

As to “means for enabling display of a banner including information for a future program on said channel in response to one of said first program guide data and said second program guide data” Mountain discloses (¶0023) that based on the EPG data received, the receiver generates a small display on TV indicating start of next program with program information as represented in Figs. 2A-2C.

Mountain meets all the limitations of the claim except “means for requesting first program guide data.” However, Horowitz discloses (¶0028, ¶0036) that the EPG data stored in the client device is updated at a sufficient time before the beginning of a television program, where the request to update the EPG is sent by the client’s device at a set time. Therefore, it would have

Art Unit: 2425

been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain's system by transmitting updated EPG to STB at predetermined time before the program begins as taught by Horowitz in order to view/record programs at the updated time so viewers do not miss any portions of the program (¶0004).

Combination of Mountain and Horowitz meets all the limitations of the claim except "initiating acquisition of said first program guide data in response to said request, wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data." However, Arsenault discloses (col.13, line 64-col.14, line 15) that the receiver acquires and stores program guide objects in stages; during the building database stage, the receiver continues to acquire program guide information to complete the program guide; and during the maintenance stage, the updated program guide information is automatically received and added to the database, where the receiver discards the old versions of program guide information and uses the newer version. Arsenault further discloses (col.14, lines 14-15) that both building database and maintenance stages occur simultaneously, which means while the EPG data is being acquired, the updated program information is received and used to create EPG. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the



Art Unit: 2425

invention to modify Mountain and Horowitz's systems by using the latest program information transmitted along with EPG to the receiver as taught by Arsenault in order to provide latest channel content information to the viewers (col.1, lines 22-24).

Regarding **claim 29**, "the television apparatus wherein said request for said first program guide data is automatically made a predetermined time period before a detected end time of a currently tuned program on said channel" Horowitz discloses (§0036 and claim 22) that the query to update EPG data is transmitted immediately prior to the end of scheduled program time. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain's system by transmitting updated EPG to STB at predetermined time before the program begins as taught by Horowitz in order to view/record programs at the updated time so viewers do not miss any portions of the program (§0004).

Regarding **claim 30**, "the television apparatus wherein said banner includes at least one of: a title of said future program, a starting time of said future program, and a duration of said future program" Mountain discloses (§0023) that the displaying information provided includes the program title, start time, channel number, etc. as represented in Figs. 2A-2C.

Regarding **claim 31**, “the television apparatus wherein said future program is a next program on said channel” Mountain discloses (§0013) that the display generated on the TV includes information relating to program next to be shown on said channel.

Regarding **claim 32**, “the television apparatus wherein said second program guide data includes an updated electronic program guide” Arsenault discloses (col.14, lines 11-15) that the client device receives and adds updated program guide objects. In addition, same motivation is used as rejection to claim 28.

Regarding **claim 35**, “a television apparatus” reads on the apparatus that provides next program information (abstract and §0008) disclosed by Mountain and represented in Fig. 2A.

As to “comprising: a tuner operative to tune a program on a channel” Mountain discloses (§0025) that user selects channel to watch.

As to “wherein a banner including information for a future program on said channel is automatically displayed in response to one of said first program guide data and said second program guide data” Mountain discloses (§0023) that based on the EPG data received, the receiver generates a small display on TV indicating start of next program with program information as represented in Figs. 2A-2C.

Art Unit: 2425

Mountain meets all the limitations of the claim except “a controller operative to request first program guide data.” However, Horowitz discloses (¶0028, ¶0036) that the EPG data stored in the client device is updated at a sufficient time before the beginning of a television program, where the request to update the EPG is sent by the client’s device at a set time. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain’s system by transmitting updated EPG to STB at predetermined time before the program begins as taught by Horowitz in order to view/record programs at the updated time so viewers do not miss any portions of the program (¶0004).

Combination of Mountain and Horowitz meets all the limitations of the claim except “enable acquisition of said first program guide data in response to said request, wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data.” However, Arsenault discloses (col.13, line 64-col.14, line 15) that the receiver acquires and stores program guide objects in stages; during the building database stage, the receiver continues to acquire program guide information to complete the program guide; and during the maintenance stage, the updated program guide information is automatically received and added to the database, where the receiver discards the old versions of program guide

Art Unit: 2425

information and uses the newer version. Arsenault further discloses (col.14, lines 14-15) that both building database and maintenance stages occur simultaneously, which means while the EPG data is being acquired, the updated program information is received and used to create EPG. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain and Horowitz's systems by using the latest program information transmitted along with EPG to the receiver as taught by Arsenault in order to provide latest channel content information to the viewers (col.1, lines 22-24).

Regarding **claim 36**, "the television apparatus wherein said request for said first program guide data is automatically made a predetermined time period before a detected end time of a currently tuned program on said channel" Horowitz discloses (§0036 and claim 22) that the query to update EPG data is transmitted immediately prior to the end of scheduled program time. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain's system by transmitting updated EPG to STB at predetermined time before the program begins as taught by Horowitz in order to view/record programs at the updated time so viewers do not miss any portions of the program (§0004).

Art Unit: 2425

Regarding **claim 37**, “the television apparatus wherein said banner includes at least one of: a title of said future program, a starting time of said future program, and a duration of said future program” Mountain discloses (¶0023) that the displaying information provided includes the program title, start time, channel number, etc. as represented in Figs. 2A-2C.

Regarding **claim 38**, “the television apparatus wherein said second program guide data includes an updated electronic program guide” Arsenault discloses (col.14, lines 11-15) that the client device receives and adds updated program guide objects. In addition, same motivation is used as rejection to claim 35.

5. **Claims 26, 33, and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mountain in view of Horowitz and Arsenault as applied to claims 21, 28, and 35 above, and further in view of US Patent 6,396,531 to Gerszberg (hereafter referenced as Gerszberg).

Regarding **claim 26**, combination of Mountain, Horowitz and Arsenault meets all the limitations of the claim except “the method wherein said predetermined time period is selected by a user of said television apparatus.” However, Gerszberg discloses (col.28, lines 49-58; col.29, lines 40- 41) that by clicking on user profile icon, user is presented with options with input means for inputting information, such as to a user specified schedule. Therefore, it would

Art Unit: 2425

have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain and Horowitz's systems by on-screen menu to set the predetermined time as taught by Gerszberg in order to allow users to gain access to latest program information (col.2, lines 34-35).

Regarding **claim 33**, "the television apparatus wherein said predetermined time period is selected by a user of said television apparatus" Gerszberg discloses (col.28, lines 49-58; col.29, lines 40- 41) that by clicking on user profile icon, user is presented with options with input means for inputting information, such as to a user specified schedule. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain and Horowitz's systems by on-screen menu to set the predetermined time as taught by Gerszberg in order to allow users to gain access to latest program information (col.2, lines 34-35).

Regarding **claim 39**, "the television apparatus wherein said predetermined time period is selected by a user of said television apparatus" Gerszberg discloses (col.28, lines 49-58; col.29, lines 40- 41) that by clicking on user profile icon, user is presented with options with input means for inputting information, such as to a user specified schedule. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain and Horowitz's systems by on-screen menu to set the predetermined time as

Art Unit: 2425

taught by Gerszberg in order to allow users to gain access to latest program information (col.2, lines 34-35).

6. **Claims 27, 34, and 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mountain in view of Horowitz, Arsenault and Gerszberg as applied to claims 26, 33, and 39 above, and further in view of US Patent 6,763,522 to Kondo (hereafter referenced as Kondo).

Regarding **claim 27**, “the method further comprised of said television apparatus performing steps of: enabling display of said banner using said updated program guide data in response to determining that said banner is not currently displayed” Mountain discloses (§10023) that the message display is generated and indicates viewer that a new program can be viewed on the same channel as represented in Figs. 2A-2C.

Combination of Mountain, Horowitz, Arsenault and Gerszberg meets all the limitations of the claim except “determining if said banner is currently displayed in response to receiving said second program guide data.” However, Kondo discloses (col.11, lines 7-9, 52-54) that the system checks to determine if the updated program information for the current tuned channel is present in transport stream and displays future programming information on the display. As to “updating said banner using said second program guide data in response to determining that said banner is currently displayed” Kondo discloses (col.7, lines 46-48) that the tuner in receiver constantly receives and refreshes graphic panel

Art Unit: 2425

for future events with newly received program streams. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain, Horowitz, Arsenault and Gerszberg's systems by refreshing graphic panel with updated EPG information as taught by Kondo in order to provide viewer with up-to-minute events schedule information (col.12, lines 46-48).

Regarding **claim 34**, "the television apparatus wherein said banner is displayed using said second program guide data in response to said requesting means determining that said banner is not currently displayed" Mountain discloses (§0023) that the message display is generated and indicates viewer that a new program can be viewed on the same channel as represented in Figs. 2A-2C.

Combination of Mountain, Horowitz, Arsenault and Gerszberg meets all the limitations of the claim except "said requesting means determines if said banner is currently displayed in response to said television apparatus receiving said second program guide data." However, Kondo discloses (col.11, lines 7-9, 52-54) that the system checks to determine if the updated program information for the current tuned channel is present in transport stream and displays future programming information on the display. As to "said banner is updated using said second program guide data in response to said requesting means determining that said banner is currently displayed" Kondo discloses (col.7, lines



Art Unit: 2425

46-48) that the tuner in receiver constantly receives and refreshes graphic panel for future events with newly received program streams. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain, Horowitz, Arsenault and Gerszberg's systems by refreshing graphic panel with updated EPG information as taught by Kondo in order to provide viewer with up-to-minute events schedule information (col.12, lines 46-48).

Regarding **claim 40**, "the television apparatus wherein said banner is displayed using said second program guide data in response to said controller determining that said banner is not currently displayed" Mountain discloses (§0023) that the message display is generated and indicates viewer that a new program can be viewed on the same channel as represented in Figs. 2A-2C.

Combination of Mountain, Horowitz, Arsenault and Gerszberg meets all the limitations of the claim except "said controller determines if said banner is currently displayed in response to said television apparatus receiving said second program guide data." However, Kondo discloses (col.11, lines 7-9, 52-54) that the system checks to determine if the updated program information for the current tuned channel is present in transport stream and displays future programming information on the display. As to "said banner is updated using said second program guide data in response to said controller determining that said banner is currently displayed" Kondo discloses (col.7, lines 46-48) that the

Art Unit: 2425

tuner in receiver constantly receives and refreshes graphic panel for future events with newly received program streams. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Mountain, Horowitz, Arsenault and Gerszberg's system by refreshing graphic panel with updated EPG information as taught by Kondo in order to provide viewer with up-to-minute events schedule information (col.12, lines 46-48).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PINKAL CHOKSHI whose telephone number is (571) 270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm (Alt. Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2425

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pinkal Chokshi/  
Examiner, Art Unit 2425

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2425